

10 EDWARD JAMES DRYG,

11 Petitioner,

No. C 06-7729 PJH

12 v.

ORDER SETTING BRIEFING SCHEDULE

13 SHEILA E. MITCHELL, Chief, Santa
14 Clara County Probation Department,

15 Respondent.

16 On December 18, 2006, petitioner Edward James Dryg, who is presently on formal
17 supervised probation following a judgment of conviction in the Superior Court of California,
18 County of Santa Clara, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §
19 2254. On January 18, 2007, the court issued a lengthy order to show cause, directing Dryg
20 to demonstrate why his petition should not be dismissed as unexhausted. Dryg filed a
21 response on February 2, 2007, which attached the habeas petition that he filed with
22 California Supreme Court. The state also filed a response on May 14, 2007, and Dryg
23 subsequently filed a reply May 25, 2007.

24 Initially, it appeared to the court that Dryg's petition sought relief for a habeas claim
25 that had not been raised before the state court. The subsequent briefing, however, clarifies
26 that Dryg seeks federal habeas relief only as to the claim raised by his state habeas
27 petition. Accordingly, the court will strictly limit its review to this exhausted claim only.
28 That claim is as follows:

1 Whether or not Dryg was denied his right to the effective assistance of
2 counsel based on counsel's failure to pursue a motion to dismiss with
prejudice for violation of the International Detainer Agreement?

CONCLUSION

4 For the foregoing reasons and for good cause shown

5 1. The clerk shall serve by certified mail a copy of this order and the petition and
6 all attachments thereto upon respondents. The clerk shall also serve a copy of this order
7 on petitioner.

8 2. Respondents shall file with the court and serve on petitioner, within 60 days of
9 the date of this order, an answer conforming in all respects to Rule 5 of the Rules
10 Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be
11 issued. Respondent shall file with the answer and serve on petitioner a copy of all portions
12 of the administrative record that are relevant to a determination of the issues presented by
13 the petition.

14 3. If the petitioner wishes to respond to the answer, he shall do so by filing a
15 traverse with the court and serving it on respondent within 30 days of his receipt of the
16 answer.

IT IS SO ORDERED.

18 | Dated: July 10, 2007

PJH

PHYLLIS J. HAMILTON
United States District Judge